

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION**

ANGEL GARCIA	:
541 South Queen Street	:
Lancaster, PA 17602	:
Plaintiff	:
v.	:
	:
MATTHEW D. LEDDY, in his individual:	No.: 07-cv-5368
and official capacities	:
308 Locust Street	:
Columbia, PA 17512	:
And	:
	:
MARC Y. TREMBLY, in his individual	:
and official capacities	:
308 Locust Street	:
Columbia, PA 17512	:
And	:
	:
EDGAR L. MANN, in his individual	:
and official capacities	:
308 Locust Street	:
Columbia, PA 17512	:
And	:
	:
DAVID W. SCHOFER, in his individual	:
and official capacities	:
308 Locust Street	:
Columbia, PA 17512	:
And	:
	:
BRENT N. SMITH, in his individual	:
and official capacities	:
308 Locust Street	:
Columbia, PA 17512	:
And	:
	:
GREG MACEY, in his individual	:
and official capacities	:
39 West Chestnut Street	:
Lancaster, PA 17603,	:
Defendants	:

FIRST AMENDED CIVIL ACTION COMPLAINT

INTRODUCTION

1. This is an action for money damages against Columbia Police Officers Matthew D. Leddy (hereinafter “Leddy”), March Y. Trembly (hereinafter “Trembly”), Edgar L. Mann (hereinafter “Mann”), David W. Schofe (hereinafter “Schofe”), Brent N. Smith (hereinafter “Smith”) and Greg Macey (hereinafter “Macey”), in their individual and official capacities, for the violation of the plaintiff’s constitutional rights.
2. Plaintiff alleges that defendant police officers Leddy, Trembly, Mann, Schofe, Smith and Macey, with reckless disregard for the safety of the plaintiff, unlawfully used excessive force by striking plaintiff repeatedly both before and after he was handcuffed, knocking plaintiff to the ground causing him to strike his head and face on the ground and causing plaintiff to suffer severe personal injuries. Further, plaintiff alleges that the named defendants, with reckless disregard for the safety of the plaintiff, failed to intervene and protect the plaintiff from the abuse inflicted by other defendant officers. The actions of defendants Leddy, Trembly, Mann, Schofe, Smith and Macey were without legal justification and in violation of plaintiff’s rights under the laws and Constitution of the United States, in particular the Fourth Amendment of the United States Constitution and 42 U.S.C. §1983.
3. The plaintiff files the within civil action complaint and requests judgment against defendants, jointly severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), plus punitive damages, interest, costs, and attorneys fees pursuant to 42 U.S. C. §1988 and damages for delay.

JURISDICTION

4. This action is brought pursuant to 42 U.S.C. §1983 and the Fourth Amendment to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. Section 1331 and 1334, and the aforementioned statutory and constitutional provisions.

PARTIES

5. Plaintiff, Angel Garcia is and was at all material times an adult individual and citizen of the United States residing at 541 South Queen Street, Lancaster, PA 17602.

6. Defendant, Matthew D. Leddy is, and at all times relevant to this complaint was, a Police Officer with the Borough of Columbia, Bureau of Police, 308 Locust Street, Columbia PA 17512.

7. Defendant, Marc Y. Trembly is, and at all times relevant to this complaint was, a Police Officer with the Borough of Columbia, Bureau of Police, 308 Locust Street, Columbia PA 17512.

8. Defendant, Edgar L. Mann is, and at all times relevant to this complaint was, a Police Officer with the Borough of Columbia, Bureau of Police, 308 Locust Street, Columbia PA 17512.

9. Defendant, David W. Schofe is, and at all times relevant to this complaint was, a Police Officer with the Borough of Columbia, Bureau of Police, 308 Locust Street, Columbia PA 17512.

10. Defendant Brent N. Smith, is and at all times relevant to this complaint was, a Police Officer and Detective with the Lancaster County Drug Task Force and the Borough of Columbia, Bureau of Police, 308 Locust Street, Columbia PA 17512.

11. Defendant, Greg Macey is, and at all times relevant to this complaint was, a Police Officer and Detective with the Lancaster City Police Department and Lancaster County Drug Task Force with offices at 139 West Chestnut Street, Lancaster, PA 17603.

12. At all times relevant and in all the actions described herein, defendants Leddy, Trembly, Mann, Schofe, Smith and Macey were acting under color of law and pursuant to their authority as Police Officers for the Borough of Columbia.

**CAUSE OF ACTION
COUNT I
PLAINTIFF, ANGEL GARCIA
V.
DEFENDANT, LEDDY, TREMBLY, MANN, SCHOFE, SMITH and MACEY**

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 12 the same as if set forth at length herein.

13. On or about December 20, 2005, at approximately 1940 hours, plaintiff Angel Garcia, was lawfully present at or near the 400 block of Locust Street in the Borough of Columbia seated in the front passenger seat of a vehicle.

14. Defendant officers approached the plaintiff and forcefully pulled him out of the vehicle.

15. After plaintiff was forcefully removed from the vehicle by defendant officers, he was choked and thrown to the ground where he was handcuffed. Once on the ground, one or more defendant officers kneeled on the plaintiff's back and he was further assaulted by defendant officers. Plaintiff was struck repeatedly by the defendant officers in his face, head, neck and back.

16. Plaintiff, Angel Garcia, had not physically resisted or assaulted the defendants in any way, and the force used against him was unnecessary, unreasonable and excessive.

17. The defendant police officers failed to intervene to protect the plaintiff from the assault by their fellow defendant officers.

18. The defendant police officers then arrested the plaintiff.

19. Plaintiff was taken into custody by defendant police officers and other officers and transported to the Columbia Borough Police Station where he was detained.

20. At no time during the events described above was the plaintiff, Angel Garcia, a threat to the safety of defendants or others or disorderly.

21. At all times during the events described above, the defendant police officers, Leddy, Trembly, Mann, Schofe, Smith and Macey, were engaged in a joint venture. The individual officers assisted each other in performing the various actions described and lent their physical presence and support and the authority of their office to each other during the said events.

22. The defendants' actions were without justification or provocation. The defendants' actions caused the plaintiff to suffer severe personal injuries, including multiple contusions to the head, face, neck and chest; abrasions; lacerations; a concussion; left shoulder injury, including a separated shoulder; pain and suffering; headaches; brain injury; and severe emotional distress, all without just and legal cause, thereby violating the plaintiff's rights under the laws and Constitution of the United States in particular 42 U.S.C. §1983 and the Fourth Amendment to the United States Constitution.

23. As a direct and proximate result of the unnecessarily forceful acts of the defendant officers, the plaintiff, Angel Garcia, suffered a violation of his constitutional rights under the

Fourth Amendment of the United States Constitution to be secure in his person and to be free from the unreasonable search and seizure of his person; as well as physical pain and suffering, and emotional trauma and suffering.

24. As a further direct and proximate result of the actions of the defendant officers, the plaintiff incurred various medical expenses in an effort to effect a cure for his injuries and is expected to suffer such loss in the future all to his great detriment and loss.

25. As a direct and proximate result of the above described unlawful, reckless, arbitrary, intentional and malicious acts of defendants, committed under color of their authority as police officers and while acting in that capacity, plaintiff, Angel Garcia, suffered great bodily harm all of which is in violation of his rights under the laws and Constitution of the United States in particular the Fourth Amendment thereof and 42 U.S.C. §1983.

26. Plaintiff, Angel Garcia, was a victim of summary punishment at the hands of defendant officers. The punishment administered was grossly disproportionate to whatever plaintiff's acts may have been, consulted cruel and unusual punishment and deprived him of his rights to due process of law under the laws and Constitution of the United States. The infliction of injury upon the plaintiff by defendant officers was unwarranted, cruel arbitrary, reckless, inhumane, unjustifiable, and excessive.

27. Defendant officers subjected the plaintiff to these deprivations of his rights either maliciously, or arbitrarily, or by acting with reckless disregard for whether the plaintiff's rights would be violated by these actions.

28. As a direct and proximate result of the acts and omissions of defendant officers, plaintiff suffered severe personal injuries as described above, was forced to endure great physical and

mental pain and suffering, and was forced to incur medical expenses and loss of income all to his great detriment and loss.

WHEREFORE, plaintiff demands judgment against defendants jointly, severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus punitive damages, interest, costs, attorney's fees and damages for delay.

COUNT II
PLAINTIFF, ANGEL GARCIA
V.
DEFENDANTS LEDDY, TREMBLY, MANN, SCHOFE, SMITH AND MACEY

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 28 the same as if set forth at length herein.

29. As police officers and as officers of the law, defendants Leddy, Trembly, Mann, Schofe, Smith and Macey have an obligation to protect the citizens of Pennsylvania, including plaintiff Angel Garcia from abuse and excessive use of force by co-workers, specifically, other Police Officers including Officers Leddy, Trembly, Mann, Schofe, Smith and Macey.

30. On or about December 20, 2005, at the aforesaid time and place, defendants Leddy, Trembly, Mann, Schofe, Smith and Macey witnessed each other assault and beat plaintiff Angel Garcia.

31. Despite the plaintiff's pleas and requests for help from the defendants, defendants failed to intervene and protect plaintiff from the assault by defendants' fellow police officers all without just and legal cause thereby violating the plaintiff's rights under the laws and Constitution of the United States, in particular 42 U.S.C. §1983 and the Fourth Amendment to

the United States Constitution.

32. As a direct and proximate result of the defendants' failure to intervene, plaintiff suffered severe personal injuries including multiple contusions to the head, face, neck and chest; abrasions; lacerations; a concussion; injury to the left shoulder, including a separated left shoulder; pain and suffering; headaches; brain injury; and severe emotional distress all without just and legal cause, thereby violating the plaintiff's rights under the laws and Constitution of the United States in particular 42 U.S.C. §1983 and the Fourth Amendment to the United States Constitution.

33. As a further direct and proximate result of the actions of defendants, the plaintiff incurred various medical expenses in an effort to effect a cure for his injuries and is expected to suffer such loss in the future all to his great detriment and loss.

34. As a direct and proximate result of the above described unlawful, reckless, arbitrary, intentional and malicious acts of defendants committed under the color of their authority as police officers for the Borough of Columbia and the Lancaster County Drug Task Force and while acting in that capacity, plaintiff Angel Garcia suffered grievous bodily harm all of which is in violation of his rights under the laws and Constitution of the United States in particular the Fourth Amendment thereto and 42 U.S.C. §1983.

35. Plaintiff, Angel Garcia, was the victim of summary punishment at the hands of defendants. The punishment administered was grossly disproportionate to whatever plaintiff's acts may have been, constituted cruel and unusual punishment, and deprived him of his right to due process of law under the laws and Constitution of the United States. The infliction of injury and the refusal of protection by defendants was unwarranted, cruel, arbitrary, reckless, inhumane,

unjustifiable and excessive.

36. As a further direct and proximate result of the above described acts and omissions, plaintiff was deprived of the rights and immunities secured to him under the Constitution and laws of the United States, to be secure in his person and to be free from punishment without due process.

37. In failing to intervene to protect the plaintiff, the defendants subjected the plaintiff to these deprivations of his rights either maliciously, arbitrarily or by acting with reckless disregard for whether the plaintiff's rights would be violated by these actions.

38. As a direct and proximate result of the acts and omissions of defendants, plaintiff suffered severe personal injuries as described above, was forced to endure great physical and mental pain and suffering and was forced to incur medical expenses and loss of income, all to his great detriment and loss.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus punitive damages, interest, costs, attorney's fees and damages for delay.

**COUNT III
PLAINTIFF ANGEL GARCIA
V. DEFENDANTS LEDDY, TREMBLY, MANN, SCHOFE, SMITH and
MACEY**

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 38 the same as if set forth at length herein.

39. The herein described conduct of defendants Leddy, Trembly, Mann, Schofe, Smith and Macey were malicious, wanton, willful, reckless, and intentionally designed to inflict grievous bodily harm and mental distress upon the person of the plaintiff.

40. As a result of the malicious, wanton, willful, reckless, and intentional conduct of defendants Leddy, Trembly, Mann, Schofe, Smith and Macey, plaintiff demands punitive damages.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus punitive damages, interest, costs, attorney's fees and damages for delay.

COUNT V
PLAINTIFF, ANGEL GARCIA
V.
DEFENDANTS LEDDY, TREMBLY, MANN, SCHOFE, SMITH and
MACEY

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 40 the same as if set forth at length herein.

41. The acts of defendants alleged in the preceding paragraphs consist of violations of plaintiff's Constitutional rights under the Fourth Amendment and 42 U.S.C. §1983.

42. Plaintiff is entitled to attorney's fees for the work performed by his attorney in this action pursuant to U.S.C. §1988.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus punitive damages, interest, costs, attorney's fees and damages for delay.

COUNT VI
PLAINTIFF, ANGEL GARCIA
V.
DEFENDANTS LEDDY, TREMBLY, MANN, SCHOFE, SMITH and
MACEY

JURY TRIAL DEMAND

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 42 the same as if set forth at length herein.

43. Plaintiff demands a trial by jury.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative in a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus punitive damages, interest, costs, attorney's fees and damages for delay.

Respectfully submitted,

CRYSTLE, ALLEN & BRAUGHT, LLC

Date

BY: s/KCA5567
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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION**

ANGEL GARCIA,

:
:
Plaintiff :
: **No.: 07-cv-5368**

v.

MATTHEW LEDDY, et. al.

:
:
Defendants :
:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **PLAINTIFF'S AMENDED COMPLAINT** in the above matter, copy attached hereto, was served on the following persons/organizations, on the date noted below, by depositing said copy and a copy of this proof of service in the United States Mail, first class, postage pre-paid and addressed as follows:

John P. Morgenstern, Esquire
SWEENEY & SHEEHAN
19th Floor, 1515 Market Street
Philadelphia, PA 19102-1983

Barry N. Kramer, Esquire
OFFICE OF ATTORNEY GENERAL
21 South 12th Street, 3rd Floor
Philadelphia, PA 19107

DATE: _____ BY: s/KCA5567
KEVIN C. ALLEN
Attorney for Plaintiff, Angel Garcia